

1
LIBRARY
SUPREME COURT, U.S.

Office - Supreme Court, U.S.

FILED

SEP 7 1956

JOHN T. FEY, Clerk

Supreme Court of the United States

OCTOBER TERM, 1956⁷

No. 25

CHARLES ROWOLDT, *Petitioner*,

v.

J. D. PERFETTO, Acting Officer in Charge, Immigration and
Naturalization Service, Department of Justice,
St. Paul, Minnesota.

On Writ of Certiorari to the United States Court of Appeals
for the Eighth Circuit

APPENDIX TO BRIEF FOR PETITIONER

STUDY BASED ON 307 POLITICAL DEPORTATION CASES

INDEX

	Page
Table 1. Present Ages of Deportees	2
Table 2. Ages of Deportees at Time of Entry Into United States	2
Table 3. Length of Deportees' Residence in United States	2
Table 4. Graph Showing Length of Residence in U. S., Age at Entry, Present Age	3
Table 5. Occupations	5
Table 6. Women Deportees	6
Table 7. State of Present Residence	7
Table 8. War-Time Service	7
Table 9. Family Status	8
Table 10. Attempts to Achieve United States Citi- zenship	8
Table 11. Ties to Native Country	9
Table 12. Labor Union Membership	9
Table 13. Time of Initiation of Deportation Pro- ceeding	10
Table 14. Period of Detention Immediately Follow- ing Deportation Arrest	10
Table 15. Amount of Bail Set in Deportation Pro- ceeding	10
Table 16. Charges in Deportation Proceeding	11
Table 17. Communist Party Membership Ended How Long Before Date of Deportation Arrest Under 1940, 1950 and 1952 Acts	12
Table 18. Duration of Communist Party Member- ship of Persons Arrested Under 1940, 1950 and 1952 Acts	13
Table 19. Disposition of 307 Cases Studied	14
Scope and Sources	14

Supreme Court of the United States

OCTOBER TERM, 1956

No. 34

CHARLES ROWOLDT, *Petitioner,*

v.

J. D. PERFETTO, Acting Officer in Charge, Immigration and
Naturalization Service, Department of Justice,
St. Paul, Minnesota.

On Writ of Certiorari to the United States Court of Appeals
for the Eighth Circuit

APPENDIX TO BRIEF FOR PETITIONER

STUDY BASED ON 307 POLITICAL DEPORTATION CASES

APPENDIX

Study Based on 307 Political Deportation Cases*

* This study was prepared under the supervision of Ann Fagan Ginger. It was compiled from questionnaires filled out by those facing deportation or their counsel and from reported administrative and judicial opinions and Department of Justice press releases. The source material is described more fully in a note following the tables.

Table 1. Present Ages of Deportees (as of Summer of 1956).

	Number	Cumulative Percentage
Over 65 years of age	74	25.
55 to 65 years of age	122	66.4
45 to 55 years of age	80	90.
35 to 45 years of age	17	99.3
Under 35 years of age	2	
Total for whom facts are known	295	

Table 2. Ages of Deportees at Time of Entry Into United States.

	Number	Cumulative Percentage
Less than 1 year old	8	2.6
1 to 5 years old	15	7.7
6 to 10 years old	34	19.1
11 to 15 years old	35	31.
16 to 20 years old	86	60.
21 to 30 years old	100	93.5
31 to 40 years old	16	99.7
Over 40 years old	1	
Total for whom facts are known	295	

Table 3. Length of Deportees' Residence in United States (as of Summer of 1956 or, if Already Expelled, as of Time of Expulsion).

	Number	Cumulative Percentage
More than 50 years	35	11.
41 to 50 years	143	60.
31 to 40 years	83	87.
21 to 30 years	20	94.
11 to 20 years	10	98.
Less than 10 years	6	
Total for whom facts are known	297	

Table 4. Graph Showing Length of Residence in U. S., Age at Entry, Present Age.

The graph following shows the length of residence of deportees included in this study. Each vertical column represents one deportee. The lower line shows the age at entry, the upper line the present age. The black area shows length of residence in the United States. The white area at bottom of graph shows length of residence in country of birth or elsewhere prior to entry into this country.

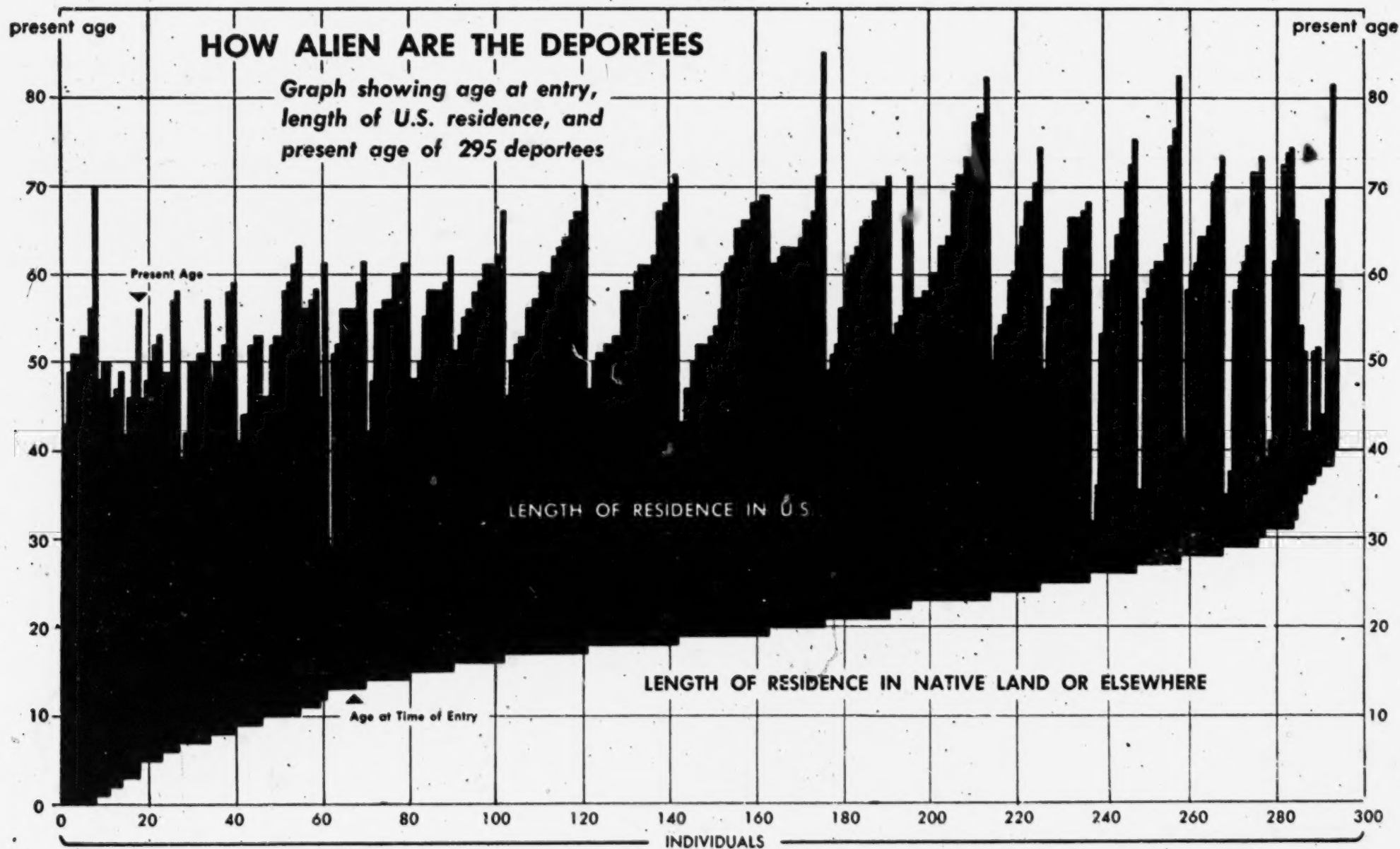


Table 5. Occupations.

Professionals		25
Dentist	1	
Nurse	1	
X-ray Technician	1	
Writers	12	
Educators	2	
Editors	2	
Architect	1	
Decorator	1	
Artists	2	
Draftsmen	2	
Small Businessmen		10
Truck Drivers		5
Seamen		3
Warehousemen		2
Miners		5
Farmers and Farm Workers		4
Foremen		3
Furriers		3
Tailors and Dressmakers		10
Garment Workers		12
Printing Trades		4
Building and Construction		24
Industrial Workers		26
Office Workers		16
Salesmen		8
Retail Establishments		4
Service Establishments		31
Domestic Workers		5
Housewives		35
Unskilled Workers		14
Unemployed		3
Retired		15

Total for whom occupations are known 267

Table 6. Women Deportees.

Information available as to 67 women deportees showed the following:

Present Age

Over 70 years of age	6
60 to 70 years old	10
50 to 60 years old	34
40 to 50 years old	14
35 to 40 years old	1
Age not known	2

Age at Entry

Less than 1 year old	2
1 to 10 years old	16
10 to 20 years old	33
20 to 30 years old	16

Length of Residence

More than 50 years	8
40 to 50 years	30
30 to 40 years	20
20 to 30 years	4
10 to 20 years	2
Length of residence not known	3

Family Status

Married	57
Citizen children	44
Citizen grandchildren	33
No close relatives in country of birth	51

Table 7. State of Present Residence.

California	78
Colorado	4
Florida	1
Illinois	13
Indiana	1
Louisiana	1
Massachusetts	1
Michigan	52
Minnesota	4
Missouri	3
New Hampshire	1
New Jersey	4
New York	36
Ohio	9
Oregon	8
Pennsylvania	11
Texas	1
Utah	1
Washington	10
West Virginia	3
Wisconsin	4
Hawaii	1
Total for whom state of present residence is known	247

Table 8. War-Time Service.

Served in United States armed forces during First or Second World War	14
Did not serve	127
Total for whom facts are known	141
Performed civilian war-time service during Second World War	45
Did not perform civilian war-time service	109
Total for whom facts are known	154
Had sons or daughters 18 or over who served in United States armed forces during Second World War or Korean War	45

Had sons or daughters 18 or over who did not serve	42
Total for whom facts are known	87

Table 9. Family Status.

Are or have been married	225
Divorced or separated	22
Never married	61
Total for whom facts are known	286

Of 225 now or previously married,

Married to United States citizens	127
Have citizen children	169
Have citizen grandchildren	92

This study includes 24 persons (12 couples) who face deportation and whose spouses also face deportation. In the cases of 3 couples, husband and wife are deportable to different countries.

Table 10. Attempts to Achieve United States Citizenship.

Tried to become citizens before initiation of deportation proceedings	173
Had application for citizenship pending at time of deportation arrest	78
Could not apply for citizenship because of nationality	1
Had been citizens but lost citizenship by denaturalization, marriage to non-citizen, etc.	9
Before deportation proceedings believed they were citizens by birth, marriage or derivation	5
Made no effort to achieve citizenship	66
Total for whom facts are known	254

Table 11. Ties to Native Country.**A. Relatives.**

Having no close relatives (children, spouses, parents, siblings) living in country of birth	173
---	-----

Having one or more close relatives living in country of birth	75
---	----

Child	2
-------	---

Wife	2
------	---

Mother	5
--------	---

Father	4
--------	---

Brother or sister	69
-------------------	----

Total for whom facts are known	248
--------------------------------	-----

B. Ability to Speak and Read Language of Country of Birth.

Unable to speak and read language	62
-----------------------------------	----

Able to speak and read language	170
---------------------------------	-----

Able to speak or read language, but not both	21
--	----

Total for whom facts are known	253
--------------------------------	-----

C. Whether Place of Birth Has Become Part of Different Country Than It Was At Time of Birth.

No	149
----	-----

Yes	105
-----	-----

Total for whom facts are known	254
--------------------------------	-----

Table 12. Labor Union Membership.

Are or were members of labor unions in the United States	185
--	-----

Were not members of labor unions in United States	53
---	----

Total for whom facts are known	238
--------------------------------	-----

Table 13. Time of Initiation of Deportation Proceeding.

Before 1920	4
1920 to 1929	2
1930 to 1939	24
1940 to 1944	8
1945 to 1949	50
1950 to 1956	164
Total for whom facts are known	252

Table 14. Period of Detention Immediately Following Deportation Arrest.

Held less than 1 day	133
Held more than 1 day awaiting bail or because bail was denied	96
Held up to one week	41
Held one week to one month	24
Held one month to one year	29
Held more than one year	2
Total for whom facts are known	229

In 49 of these cases, court action was required in order to secure release on bail pending disposition of the deportation proceedings.

In 100 of these cases, the deportees after once having been released were again detained during the deportation proceeding, 14 of them being rearrested twice or oftener.

Table 15. Amount of Bail Set in Deportation Proceeding.

Amount	Number	Percent
Over \$5,000	2	1.
\$4,000 to \$5,000	51	21.
\$2,000 to \$3,500	81	32.
\$1,000 to \$1,500	61	23.
\$500	29	11.
Held without Bail	23	10.
Released without Bail on own recognizance, parole, or conditional parole	9	3.
Total for whom facts are known	256	

Table 16. Charges in Deportation Proceeding.

Total number for whom information was available	307
Number charged with past or present membership in Communist Party of United States*	290
Number in which other charges were pressed	18**
Personal belief in and advocacy of violent overthrow of government	2
Anarchist beliefs	1
Advocacy of "world communism"	1
Affiliation with Communist Party of United States	4
Affiliation with Communist Party of United States through membership in International Workers Order	3
Membership in Young Communist League	1
Membership in Nazi Party	1
Membership in foreign Communist Party prior to entry into United States	5

* Including cases prior to Internal Security Act in which charge of Communist Party membership was stated as membership in an organization advocating violent overthrow of government.

** In one of these, the case of Peter Harisiades, the government pressed charges of both Communist Party membership and personal belief in and advocacy of violent overthrow. The Board of Immigration Appeals ruled that the charges of personal belief and advocacy were not sustained (File A-5 300-756). In no other case charging Communist Party membership did the government attempt to prove personal belief in or advocacy of violent revolution.

Table 17. Communist Party Membership* Ended How Long Before Date of Deportation Arrest Under 1940, 1950 and 1952 Acts.

	Number	Percent	Cumulative Percent
Membership ended over 30 yrs. before arrest	1	.6	.6
Membership ended 21-25 yrs. before arrest	8	5.	5.6
Membership ended 16-20 yrs. before arrest	45	27.	32.6
Membership ended 11-15 yrs. before arrest	51	30.	62.6
Membership ended 6-10 yrs. before arrest	19	11.	73.6
Membership ended 1-5 yrs. before arrest	24	14.	87.6
Members at time of arrest	20	12.	
Total for whom facts are known	168	100.	

* As claimed by Government.

Table 18. Duration of Communist Party Membership of Persons Arrested under 1940, 1950 and 1952 Acts.*

Duration	Number	Percent
Less than 1 year	8	5.
1 month	1	
2 months	1	
3 months	3	
4 months	1	
5 months	1	
6 months	1	
1 year	15	10.
2 years	47	31.
3 to 5 years	26	17.
6 to 10 years	29	19.
11 to 15 years	14	9.
16 to 20 years	8	5.
21 to 25 years	5	3.
26 to 30 years	2	1.
Total for whom facts are known	154	100.

* As claimed by Government.

Table 19. Disposition of 307 Cases Studied.

	Number	Percent
Cases Ended Without Deportation		
Warrants cancelled after deportation hearing	1	.003
Warrants cancelled by order of Board of Immigration Appeals	9	3.
Warrants cancelled after Court action	8	3.
Deportees died during proceedings	6	2.
	24	8.003
Cases Ended by Departure from U. S.		
Deported	27	8.
Accepted voluntary departure	9	3.
	36	11.
Pending Cases		
On supervisory parole*	157	49.
Pending before the Service	17	6.
Pending in Federal courts	45	16.
	219	71.
Present Status Unknown	28	9.
Totals	307	100.

* These have had a final order of deportation outstanding against them for six months or more, but cannot be deported because there is no country to which they can be sent. They are subject to the supervisory parole provisions of section 242(d) of the Immigration and Nationality Act, 8 U. S. C. 1252(d).

SCOPE AND SOURCES

This study is limited to cases of persons arrested for expulsion on political charges after passage of the Internal Security Act plus persons previously arrested on such charges in whose cases some government action was taken after the Act. The study includes all such cases which

could be ascertained and for which the information sought could be obtained.

The government does not publish material of the kind here surveyed on political deportation cases as a group, and the files of individual deportation cases are not open for public inspection. It was necessary, therefore, to utilize other sources. The names of more than 300 cases to be studied were compiled from correspondence with attorneys known to practice in the field and from other private sources. Questionnaires were sent to the deportees and their counsel in those cases, and 250 of them were returned with answers.

This material was supplemented and (where the same cases were involved) checked by information appearing in the following: press releases issued by the Department of Justice for 1953 to 1955, inclusive, 26 of which contained relevant information on specific cases; opinions reported in Immigration and Naturalization Decisions for 1950 to 1954 inclusive (24 of such opinions being used); opinions reported in the Federal Reporter from 1950 on (44 of such opinions being used).*

For cases in which information was obtained solely from the press releases and reported opinions, the questionnaires were completed to the extent possible by those making the study. In a few cases there were discrepancies between a deportee's response to a questionnaire and information on his case appearing in a reported opinion. In these, the information from the latter source was utilized.

It is estimated that the 307 cases studied in this Appendix comprise well over a third of all political deportation cases which arose since 1950 or were then pending. While government figures are not absolutely clear even on the number of deportation arrests made on

* We have furnished to the Solicitor General a list showing the cases studied and the source material used for each case.

political grounds, they show that in 1955 there were "744 aliens who were under subversive charges or who had subversive backgrounds."* The official figures also show that between 1950 and 1955, 183 such persons were deported, 23 accepted voluntary departure, and 229 were undeportable;** and that in 1955, 33 were arrested***—making a total of 468 cases.

This study probably includes a majority of cases now pending, since it includes only 27 cases in which deportation was actually carried out, and 9 in which there was voluntary departure, as compared with the official 1950-1955 totals of 183 deported and 23 voluntary departures.

* 1954 Annual Report of Immigration and Naturalization Service, p. 39.

** Totals for 1950 through 1954 appear in 1954 Annual Report of Immigration and Naturalization Service, Table 33. The figures for 1955 appear in 1955 Annual Report of the Attorney General, pp. 405, 408.

*** 1955 Annual Report of the Attorney General, p. 403.